

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

REGINA BOONE GARNER

PLAINTIFF

V.

NO. 4:13CV00170-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the court on the claimant's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying her claims for a period of disability, Disability Insurance Benefits, and Supplemental Security Income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the court's ruling from the bench following the parties' oral argument, the court is not convinced that the ALJ's residual functional capacity ("RFC") finding is supported by substantial evidence in the record. Specifically, the court could not find adequate support in the record for the ALJ's determination that the claimant could stand and walk for six hours of an eight-hour workday, especially in light of a 2008 x-ray report (which the ALJ did not mention) documenting degenerative changes with osteophyte formation in the lower lumbar spine, Plaintiff's consistent complaints to her treater of pain in the hips and knee, and Dr. Robert Shearin's report of supportive findings for lumbago and arthritis in the hips and right knee.

On remand the ALJ shall recontact Dr. Shearin and provide him with all of the claimant's medical records from the administrative file which predate the claimant's examination by Dr. Shearin, including, but not limited to, the 2008 x-ray report. The ALJ shall ask Dr. Shearin to review said medical evidence along with his 2010 consultative report and complete a medical source statement outlining Plaintiff's capacity for work related activities, including, but not limited to, her ability to stand and walk during the relevant time period. Once this information is obtained, the ALJ shall reconsider the claimant's RFC in light of all the evidence in the record. If necessary, the ALJ shall obtain supplemental vocational expert testimony. The ALJ may conduct any additional proceedings not inconsistent with this order.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REVERSED** and **REMANDED** for further proceedings.

This, the 28th day of March, 2014.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE